

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 7514

BILL NUMBER: HB 1788

NOTE PREPARED: Feb 26, 2003

BILL AMENDED: Feb 26, 2003

SUBJECT: Sale of Tobacco.

FIRST AUTHOR: Rep. Hasler

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: X

X

**GENERAL
DEDICATED
FEDERAL**

IMPACT: State

Summary of Legislation: (Amended) The bill provides that a cigarette distributor who has five consecutive years of good credit standing with the state is not required to post a bond as a condition of paying for revenue stamps within 30 days of the purchase date. The bill prohibits a distributor from affixing a tax stamp to a cigarette package containing cigarettes from a tobacco product manufacturer that has not complied with the Master Settlement Agreement. It specifies that the Alcohol and Tobacco Commission shall enforce the Cigarette Fair Trade Act. The bill also requires the Consumer Protection Division of the Office of the Attorney General to maintain a cigarette listing containing the names of all cigarette distributors that hold a registration certificate and all tobacco product manufacturers that are in compliance with the Tobacco Settlement. The bill authorizes the Department of State Revenue to revoke a retailer's registration certificate or impose a civil penalty upon a retailer who fails to produce an invoice or other evidence that the cigarettes were purchased from a legitimate distributor or manufacturer, and permits the state to seize undocumented cigarettes. The bill renames the Youth Tobacco Education and Enforcement Fund the Dick Doyle Youth Tobacco Education and Enforcement Fund.

Effective Date: July 1, 2003.

Explanation of State Expenditures: (Revised) *Attorney General's Office:* The bill requires the Attorney General to maintain an annual listing of cigarette manufacturers who are in compliance with state law and are either participants in the Master Settlement Agreement or make the required deposits into a qualified escrow account. The Office must also maintain a listing of cigarette distributors registered with Department of State Revenue. The Attorney General would be required to publish the first listing no later than October 1, 2003. The bill requires that the listing be made public on the Access Indiana website. The bill also allows the Attorney General to establish rules to assist with the enforcement of cigarette manufactures' compliance with state law requiring them to either participate in the Master Settlement Agreement or contribute to a qualified escrow account. It is estimated that the Office could cover any costs associated with the bill's provisions using existing staff and resources. Additionally, some of the Office's costs may be offset through

fees recovered from persons violating the bill's provisions. The Attorney General's Tobacco Litigation Division consists of two attorneys and a paralegal. The Division's operating budget is approximately \$200,000 each year.

Department of State Revenue: This bill would require the Department to develop rules and procedures to assist with the enforcement of tobacco manufactures' compliance with certain provisions. It is presumed that the Department can absorb any costs associated with the bill.

Alcohol and Tobacco Commission: This bill would require the Alcohol and Tobacco Commission to enforce the Cigarette Fair Trade Act. The Act is currently administered by the Audit Division of the Department of State Revenue. There are two people in the Department that work with the Act, among other duties. Depending upon the Commission's administration of the duties, the Commission could be required to hire additional staff. This bill does not contain an appropriation.

Explanation of State Revenues:(Revised) *Penalty Provisions:* The bill prohibits the sale of cigarettes from manufacturers not included on the Attorney General's listing of compliant manufactures. The Department of State Revenue may impose a civil penalty of up to 500% of the retail value of cigarettes sold or \$5,000 for each violation of this provision. Penalties collected under this provision would be deposited in the Alcohol and Tobacco Commission's Enforcement and Administration Fund and the state General Fund. Additionally, a person who violates the bill provisions commits a deceptive act actionable by the Attorney General. If convicted, the court may order the sender to pay to the state the reasonable costs of the Attorney General's investigation and prosecution related to the action. A court may also order an injunction. If the injunction is violated, a civil penalty of up to \$15,000 may be assessed per violation. If a court finds that a person committed a deceptive act knowingly, the Attorney General may recover a civil penalty of a fine up to \$500 per violation on behalf of the state.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of State Revenue; Attorney General's Office; Alcohol and Tobacco Commission.

Local Agencies Affected:

Information Sources: National Association of Attorneys General; Jennifer Thuma, Legislative Liaison, Attorney General's Office, 233-6143.

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